

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

FILED
FEB 20 2014
SECRETARY, BOARD OF
OIL, GAS & MINING

IN THE MATTER OF THE REQUEST)
FOR AGENCY ACTION OF CLEAR)
CREEK CBM, LLC FOR APPROVAL)
TO INJECT PRODUCED WATER)
FROM THE COOK #20-1 WELL)
LOCATED IN SECTION 20,)
TOWNSHIP 13 SOUTH, RANGE 7)
EAST, CARBON COUNTY, UTAH,)
INTO THE ALPINE SCHOOL)
DISTRICT #3-17 (SWD) CLASS II)
INJECTION WELL LOCATED IN)
SECTION 17, TOWNSHIP 13 SOUTH,)
RANGE 7 EAST, CARBON COUNTY,)
UTAH)

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER

Docket No. 2014-005
Cause No. UIC 362.2-2

This Cause came on regularly for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, January 22, 2014, approximately at the hour of 4:00 p.m. in the Auditorium of the Department of Natural Resources, 1594 West North Temple, Salt Lake City, Utah. The following Board members were present at the January 22, 2014 hearing: Ruland J. Gill, Jr., Chairman; Kelly L. Payne; Carl F. Kendell; Chris D. Hansen; Michael R. Brown; and Susan S. Davis. John Baza, Director; Brad Hill, Oil and Gas Permitting Manager; Dustin Doucet, Petroleum Engineer; and Clinton Dworshak, Compliance and Public Outreach Manager, were present for the Division of Oil, Gas and Mining (the "Division"). The Board was represented by Michael S. Johnson, Assistant Attorney General, and the Division was represented by Douglas J. Crapo, Assistant Attorney General. The petitioner, Clear Creek CBM, LLC ("Clear Creek") was represented by Thomas W. Clawson of Van Cott, Bagley, Cornwall & McCarthy, and Steven Ault, Clear Creek's Managing Member, and Craig Clement, Clear Creek's consulting geologist, testified

on behalf of the petitioner. Mr. Clement was recognized as an expert regarding the suitability and compatibility of produced water to be injected underground for the purposes of this Cause.

By an undated letter received by the Board and the Division on January 8, 2014, Mary Louise Seamons objected to Clear Creek's Request for Agency Action (the "Request") filed in this Cause. Ms. Seamons did not appear at the January 22, 2014 hearing or otherwise participate in this Cause. By an email (with attachments) dated January 9, 2014, and received by the Division on January 9, 2014, and by the Board on January 10, 2014, Rex L. Sacco, a representative of the Carbon County Planning Department, expressed Carbon County's concerns regarding the risk of possible ground water contamination associated with Clear Creek's Request. At the January 22, 2014 hearing, Dave Levanger, Director for Planning for Carbon County, appeared on Carbon County's behalf and expressed the County's concerns to the Board. Carbon County did not otherwise object to Clear Creek's Request or participate in the proceeding as a party. George Liodakis, Manager of Liodakis Ranch, LLC, a mineral interest owner in the Cook #20-1 Well and the well's surface owner, also spoke to the Board at the hearing. Other than Clear Creek, the Division, Mary Louise Seamons, Carbon County, and George Liodakis, no other person or party filed a response to Clear Creek's Request and no other person or party appeared at or participated in the hearing.

The Board, having fully considered the testimony adduced and exhibits received into evidence at the January 22, 2014 hearing, being fully advised, and good cause appearing, hereby makes the following findings of fact, conclusions of law, and order in this Cause:

FINDINGS OF FACT

1. Notices of the time, place, and purposes of the Board's regularly scheduled January 22, 2014 hearing were mailed to all interested parties by first-class mail, postage prepaid,

and were duly published in the Salt Lake Tribune, Deseret Morning News, Sun Advocate, and the Emery County Progress pursuant to the requirements of Utah Administrative Code (“U.A.C.”) Rule R641-106-100. Copies of the Request were mailed to all interested parties pursuant to U.A.C. Rule R641-104-135.

2. Other than the letter from Mary Louise Seamons, the email from Carbon County, and the appearances by Carbon County and George Liidakis, no written responses, protests, or objections to Clear Creek’s Request were filed with or received by the Division or the Board, and no persons or parties appeared at, or participated in, the January 22, 2014 hearing in opposition to Clear Creek’s Request in this matter.

3. Clear Creek is a Utah limited liability company in good standing, having its principal place of business in Orem, Utah. Clear Creek is qualified to and is doing business in Utah.

4. Clear Creek is the designated operator of the Cook #20-1 Well, which is located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20, Township 13, Range 7 East, Carbon County, Utah. The Cook #20-1 produces natural gas from the Ferron sandstone member of the Mancos Formation (the “Ferron Sandstone”). The Cook #20-1 also produces water in connection with the natural gas production operations. The produced water requires disposal.

5. Marion Energy, Inc. (“Marion”) operates the ASD #3-17 Well, whose surface location is in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, Township 13 South, Range 7 East, Carbon County, Utah, and whose bottom-hole location is in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of that section. Marion also operates the Clear Creek Federal Unit (the “Clear Creek Unit”).

6. The Division administratively approved the conversion of the ASD #3-17 into a salt water disposal (SWD) Class II injection well.

7. By that certain Findings of Fact, Conclusions of Law and Order issued by the Board on May 11, 2010, in Cause No. UIC-362.2 (the "Prior Order"), the Board approved Marion's request for an aquifer exemption for selected zones of the Ferron Sandstone within a one-half mile radius of the ASD #3-17. The Board found that "[w]ater injected into the subject aquifer will be limited to water produced from wells within the Clear Creek Unit." The Prior Order specifically provided that "[s]hould Marion, or any other party, wish to inject water produced from outside the Clear Creek Federal unit into the aquifer exempted herein, Board approval must first be obtained."

8. The Cook #20-1 is located approximately one mile from the ASD #3-17, and is located outside the boundaries of the Clear Creek Unit.

9. Clear Creek desires to inject the produced water from the Cook #20-1 into the ASD #3-17 and the zones of the Ferron Sandstone previously approved by the Board and the Division for water injection purposes.

10. At the January 22, 2014 hearing, Clear Creek testified that Marion has indicated that it does not object to Clear Creek's requesting approval to dispose the produced water from the Cook #20-1 Well into the approved zones in the Ferron Sandstone in the ASD #3-17 Well. Clear Creek also testified that Marion and Clear Creek are currently negotiating the terms of an agreement regarding such disposal operations, which is a prerequisite to any such disposal.

11. The water from the wells within the Clear Creek Unit that has been approved for injection into the ASD #3-17 and the water produced from the Cook #20-1 are similar, both being produced from the Ferron Sandstone under similar underground conditions.

12. The water produced from the Cook #20-1 is appropriate for injection into the approved injection intervals of the Ferron Sandstone in the ASD #3-17. The produced water from

the Cook #20-1 Well is compatible with the water produced from the wells within the Clear Creek Unit that has already been approved for water disposal purposes. If the produced water from the Cook #20-1 ever becomes incompatible with the other injected water, it can and will be treated as necessary before injection.

13. The estimated volume of produced water from the Cook #20-1 to be injected into the ASD #3-17 is approximately 250-300 barrels of water per day. The actual volume injected will be determined by the operator of the injection well in compliance with the UIC permit governing such injection operations.

14. Water disposal operations as proposed and requested by Clear Creek are necessary to prevent waste and to protect the correlative rights of all owners.

15. The Board voted unanimously to approve Clear Creek's Request.

CONCLUSIONS OF LAW

1. Due and regular notice of the time, place, and purposes of the Board's regularly scheduled January 22, 2014 hearing was given to all interested parties in the form and manner and within the time required by law and the Rules and Regulations of the Board. Due and regular notice of the filing of the Request was given to all interested parties in the form and manner and within the time required by law and the Rules and Regulations of the Board.

2. The Board has exclusive jurisdiction of the parties and subject matter of this Request pursuant to Section 40-6-5(5) of the Utah Code and has the power and authority to make and promulgate the order herein set forth.

3. Clear Creek's proposed disposal operations are in the public interest and will promote conservation, will increase ultimate recovery, will prevent waste, and will protect correlative rights.

4. Clear Creek has sustained its burden of proof, demonstrated good cause, and satisfied all legal requirements for granting the Request.

ORDER

Based upon the Request, the testimony and evidence submitted and entered at the January 22, 2014 hearing and the findings of fact and conclusions of law as stated above, it is therefore ordered that:

1. Clear Creek's Request seeking to add the produced water from the Cook #20-1 Well to the approved sources of water to be injected into the ASD #3-17 Well is hereby granted.

2. This Order does not waive jurisdiction of the Board over the Underground Injection Control (UIC) program with respect to the ASD #3-17 (SWD) Class II Injection Well and does not modify or amend the Prior Order except as provided in Paragraph 1 immediately above. Clear Creek shall comply with all requirements and procedures of the UIC program administered by the Division.

3. Pursuant to Utah Administrative Code R641 and Utah Code Ann. § 63-46b-6 to -10 (1953, as amended), the Board has considered and decided this matter as a formal adjudication.

4. This Findings of Fact, Conclusion of Law, and Order ("Order") is based exclusively on evidence of record in the adjudicative proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, all as required by the Utah Administrative Procedures Act, Utah Code Ann. § 63-46b-10 and Utah Administrative Code R641-109.

5. Notice re Right to Seek Judicial Review by the Utah Supreme Court or to

Request Board Reconsideration: As required by Utah Code Ann. § 63-46b-10(e) to -10(g) (1953, as amended), the Board hereby notifies all parties in interest that they have the right to seek judicial review of this final Board Order in this formal adjudication by filing a timely appeal with the Utah Supreme Court within 30 days after the date that this Order is issued. Utah Code Ann. § 63-46b-14(3)(a) and -16 (1953, as amended). As an alternative to seeking immediate judicial review, and not as a prerequisite to seeking judicial review, the Board also hereby notifies parties that they may elect to request that the Board reconsider this Order, which constitutes a final agency action of the Board. Utah Code Ann. § 63-46b-13, entitled, "Agency review - Reconsideration," states:

- (1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63-46b-12 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.
- (b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.
- (2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.
- (3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.
- (b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

Id. The Board also hereby notifies the parties that Utah Administrative Code R641-110-100, which is part of a group of Board rules entitled, "Rehearing and Modification of Existing Orders," states:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on

each other party to the proceeding no later than the 15th day of that month.

Id. See Utah Administrative Code R641-110-200 for the required contents of a petition for rehearing. If there is any conflict between the deadline in Utah Code Ann § 63-46b-13 (1953, as amended) and the deadline in Utah Administrative Code R641-110-100 for moving to rehear this matter, the Board hereby rules that the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the party may still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

6. The Board retains continuing jurisdiction over all the parties and over the subject matter of this Cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this Order by the Utah Supreme Court.

7. For all purposes, the Chairman's signature on a faxed copy of this Order shall be deemed the equivalent of a signed original.

ISSUED this 20th day of February, 2014.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING

By 
Ruland J. Gill, Jr., Chairman

CERTIFICATE OF MAILING

I hereby certify that on this 20th day of February, 2014, I caused a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** to be served via Email or U.S. Mail, properly addressed with postage prepaid, upon each of the following:

Van Cott, Bagley, Cornwall & McCarthy
Thomas W. Clawson
36 South State Street, Suite 1900
Salt Lake City, Utah 84111
[Via Email]

Clear Creek CBM, LLC
Steve Ault
752 S. 500 E.
Orem, Utah 84097

Michael S. Johnson
Assistant Attorney General
Utah Board of Oil, Gas and Mining
1594 West North Temple, Suite 300
Salt Lake City, Utah 84116
[Via Email]

Steven F. Alder
Assistant Attorney General
Utah Board of Oil, Gas and Mining
1594 West North Temple, Suite 300
Salt Lake City, Utah 84116
[Via Email]

Alpine Board of Education
Alpine School District
575 North 100 East
American Fork, UT 84003

State of Utah
LaVonne Garrison
Trust Lands Administration
675 East 500 South, Suite 500
Salt Lake City, Utah 84102

Carbon County Recreation & Transportation
Special Service District
125 East Main
Price, UT 84501

Bruce Suchomel
UIC Program
USEPA Region 8 (P-W-GW)
1595 Wynkoop St.
Denver, CO 80202-1129

Marion Energy, Inc.
c/o Keri Clarke, Vice President
3580 Orr Road
Allen, TX 75002

Church of Jesus Christ of LDS
LDS Church, Tax Division
50 E. North Temple
22nd Floor, RE: 2A-0736
Salt Lake City, Utah 84150

Bureau of Land Management
Price Field Office
Attn: Don Stephens
125 S. 600 W.
Price, Utah 84501

Merrion Oil and Gas Corporation
610 Reilly Ave
Farmington, NM 87401

Bureau of Land Management
Utah State Office
Attn: Becky J. Hammond
440 West 200 South Suite 500
Salt Lake City Utah 84101-1345

Liodakis Ranch LLC
George E. Liodakis
2655 E. Chalet Circle
Sandy, Utah 84093

Annie S. Kosec Trust
c/o Richard Kosec
1776 Kenilworth Rd.
Helper, UT 84526

Mr. J. Richard Bell
4362 Idlewild Road
Salt Lake City, Utah 84124

Northstargas, LC
c/o Steve Ault
752 South 500 East
Orem, UT 84097

Ms. Joni Buehner
350 Claude Drive
Santa Clara, CA 84765

Blue Ridge Services LLC
Attn: Denise A Dragoo
Snell & Wilmer LLP
15 W. South Temple, Suite 1200
Salt Lake City, Utah 84101

Ms. Connie Condie
433 E. Vine Street
Murray, UT 84765
[Undeliverable]

Summit Energy Partners Clear Creek, LLC
1245 Brickyard Rd.
Salt Lake City, Utah 84106

Mr. John Nicolaides
5040 N. Second Street
Phoenix, AZ 85012
[Undeliverable]

Reverse Exchange LLC
As title holder for AOK Family Holding
Trust,
Jana Gunderson, Trustee
341 North 1100 East
American Fork, Utah 84003
[Undeliverable]

Mr. Paul Daraban
10104 Dunsinane
South Jordan, Utah 84095

Lutheran High School
2222 North Santiago Blvd.
Orange, CA 92867

Ms. Anastasia Daraban
1833 S. West Temple #1
Salt Lake City, Utah 84115

Harvey Stone
155 Franklin Street
P.O. Box 536
Ferron, Utah 84523
[Undeliverable]

Leoan Gunderson
3990 Raymond
Ogden, Utah 84403

Estate of James T. Jensen
2961 N. Caitland Ct.
Salt Lake City, Utah 84121

Jerry L. Jensen
1155 N. Carbonville Rd.
Price, Utah 84501

Bonnie Lynne Jensen Stradling
PO Box 1035
Saint Johns, AZ 85936-1035
[Address updated 1/10/2014]

Jack Thomas
Route 2
Preston, ID 83263
[Undeliverable]

Carbon County
120 East Main Street
Price, Utah 84501

Mr. Michael Stathis
1579 S. East Canyon Drive
Cedar City, Utah 84720

Mr. Tommy John Nicolaides
989 Military Drive
Salt Lake City, Utah 84108

Ms. Hilda Hammond
2912 Redwood
Costa Mesa, CA 92626

Mary Louise Seamons
1774 South 340 East
Orem, Utah 84058

Anthon Madsen
1821 Howell
Richland, WA 99354

Annie Andersen
1646 Snow Rd
Fort Sill, OK 73503
[Undeliverable]

Dix Jensen
525 Woodhill Dr.
Price, Utah 84501

Alice Pannier
1138 Michigan Ave.
Salt Lake City, Utah 84105

